



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

March 11, 2022

In Reply Refer to:

EPA File No: 02RNO-22-R5

Liesl Eichler Clark, Director
Michigan Department of Environment,
Great Lakes and Energy
525 West Allegan Street
Post Office Box 30471
Lansing, MI 48909-7973
ClarkL20@michigan.gov

Re: Acceptance of Administrative Complaint

Dear Director Clark:

This letter is in regard to U.S. Environmental Protection Agency (EPA) Complaint No. 02RNO-22-R5 filed with the External Civil Rights and Compliance Office (ECRCO) on November 8, 2021, against the Michigan Department of Environment, Great Lakes and Energy (EGLE). The Complaint alleges that EGLE discriminated on the basis of race, color, or national origin in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000(d) *et seq.* (Title VI), and EPA's nondiscrimination regulation, at 40 C.F.R. Part 7, through a series of Permits to Install (PTIs), including PTI No. 33-20 that was issued on May 12, 2021, for the Stellantis Complex¹ in Northwest Detroit, Michigan.

Pursuant to EPA's nondiscrimination regulation, EPA's ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.*

¹ ECRCO is defining the "Stellantis Complex" to include Stellantis's Mack Assembly Plant and Jefferson North Assembly Plant in Detroit, Michigan.

Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

After careful consideration, ECRCO is accepting EPA Complaint No. 02RNO-22-R5 for investigation because the administrative complaint filed against EGLE meets the four jurisdictional requirements. First, the complaint is in writing. Second, it alleges that a discriminatory act occurred in violation of EPA's nondiscrimination regulation. Third, it was filed within 180 days of the alleged discriminatory act – the last permitting action related to the Stellantis permit. Finally, EGLE is a recipient of EPA financial assistance.

Accordingly, ECRCO will investigate the following issues:

1. Whether EGLE discriminated on the basis of race, color and national origin in violation of Title VI and EPA's implementing regulation at 40 C.F.R. Part 7, when it approved Permit to Install (PTI) No. 33-20 for the Stellantis Complex; and
2. Whether EGLE's criteria and methods of administering its air permit program, including its exercise of authority under Rule 228, has the intent and/or effect of subjecting persons to discrimination the basis of race, color, and national origin in violation of Title VI and EPA's implementing regulation at 40 C.F.R. Part 7.

The initiation of an investigation of the issues above is not a decision on the merits. ECRCO is a neutral fact finder and will begin its process to gather the relevant information, discuss the matter further with you and the Complainant, and determine next steps utilizing ECRCO's internal procedures. Generally, the investigation and resolution options and procedures identified in EPA's nondiscrimination regulation and ECRCO's Case Resolution Manual (CRM) will be utilized for the complaint investigation process. I invite you to review ECRCO's Case Resolution Manual for a more detailed explanation of ECRCO's complaint resolution process, available at https://www.epa.gov/sites/production/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf.

ECRCO is providing EGLE with an opportunity to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving a copy of this letter notifying EGLE of the acceptance of Administrative Complaint No. 02RNO-22-R5. *See* 40 C.F.R. § 7.120(d)(1)(ii-iii).

EPA's nondiscrimination regulation provides that ECRCO shall attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d)(2). Accordingly, ECRCO will contact EGLE and the Complainant within 10 days of the date of this letter to provide information about ECRCO's complaint process, and to offer and discuss the alternative dispute resolution (ADR)²

² EPA ECRCO's Alternative Dispute Resolution (ADR) process involves the formal mediation of a complaint or

and informal resolution agreement³ processes as potential options for resolution of the issues which ECRCO has accepted for investigation. If EGLE (and the Complainant with respect to ADR) agrees to engage in either of these potential resolution processes, ECRCO will suspend its issuance of preliminary findings within 180 days. In the event that either of these potential resolution processes fails to result in an agreement, ECRCO will notify EGLE as well as the Complainant that ECRCO has resumed its process to issue preliminary findings within 180 days of the start of the investigation – excluding any days spent in either of these potential resolution processes.⁴

Please be advised that a redacted copy of the complaint is enclosed, consistent with 40 C.F.R. § 7.120(e). ECRCO is releasing the complaint with appropriate redactions consistent with the Freedom of Information Act (FOIA) and the Privacy Act and will only release identifying information to the extent necessary to comply with 40 C.F.R. Parts 5 and 7.⁵

The EPA regulation prohibits applicants, recipients, and other persons from intimidating, threatening, coercing, or engaging in other discriminatory conduct against anyone because they have either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. See 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with ECRCO.

We look forward to discussions with EGLE as we investigate and resolve this complaint. If you have questions about this letter, please feel free to contact me at (202) 564-9649, by email at dorka.lilian@epa.gov, or Katelyn Liesner, Case Manager, at (202) 564-2035, by email at liesner.katelyn@epa.gov.

Sincerely,



Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

Enclosure Provided: Via Email, Redacted Copy of Complaint

complaint allegations between the complainant and recipient, through the use of a professionally trained mediator. See U.S. EPA, ECRCO Case Resolution Manual, Section 3.3, at 24. (Available at: https://www.epa.gov/sites/default/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf).

³ Informal Resolution occurs between ECRCO and the recipient. See Case Resolution Manual, Section 3.1, at p. 22.; (Available at: https://www.epa.gov/sites/default/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf)

⁴ See 40 C.F.R. § 7.115(c).

⁵ Freedom of Information Act, 5 U.S.C. § 552(b)(6) and (7)(c) and the Privacy Act of 1974, 5 U.S.C. § 552a.

cc: Ariadne Goerke
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